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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,047	05/03/2001	Viktor Ivanovich Petrik	12080/46001	5580

26646 7590 12/19/2002

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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
1724	7

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/848,047	Applicant(s) Petrik
Examiner Ivars Cintins	Art Unit 1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Nov 8, 2002
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- Disposition of Claims
- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) 2, 4-8, 23, 24, and 27-33 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1, 3, 9-22, 25, and 26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
- 2) Notice of Dreftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 6) Other: _____

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Applicant has elected, in Paper No. 6: (1) dispersing into a liquid as the placing species; (2) thermochemical as the external action species; and (3) purifying water as the method of use species. Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Accordingly, claims 1, 3, 9-22, 25 and 26 are deemed to read of the elected species; and claims 2, 4-8, 23, 24 and 27-33 are withdrawn from further consideration, as being directed to non-elected species.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3, 9-18, 20, 25 and 26 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The use of a mixture of expanded graphite and carbonaceous nanocrystals appears to be critical and essential to the practice of the invention (see page 3, lines 9-11; and page 4, line 8 of the specification). Since this feature has not been recited in claims 1, 3, 9-18, 20, 25 and 26, these claims are not

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enabled by the disclosure. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1, 3, 9-22, 25 and 26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1, 3, 9-18, 20, 25 and 26 fail to recite the apparently essential limitation that carbonaceous mixture employed includes both expanded graphite and carbonaceous nanocrystals; and therefore, these claims fail to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Also, the term "the carbonaceous mixture of expanded graphite and carbonaceous nanocrystals" (claims 19 and 21, lines 1-2) lacks antecedent basis in the claims, and is therefore indefinite. Claim 22 depends from claim 21, and is hence also indefinite. Furthermore, the term "is used for" (claims 25 and 26, line 1) is vague, and indefinite as to the manipulative steps of the recited process.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 14-18 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Maryasin et al. (U.S. Patent No. 5,282,975). See col. 2, lines 50-53; and col. 3, lines 35-37.

Claims 1, 3, 14-16, 20, 25 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smirnov et al. (U.S. Patent No. 5,788,865). See col. 5, line 65; and col. 6, lines 45-47.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maryasin et al. The reference discloses

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the claimed invention with the exception of the source of the polluted water. However, the exact source (i.e. industrial discharge) of the polluted water undergoing treatment in the Maryasin et al. process is not seen to materially affect the overall results of this reference process, or to produce any new and unexpected result; and is therefore deemed to be an obvious matter of choice, which is insufficient to patentably distinguish claims 25 and 26.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Simmons, can be reached at (703) 308-1972.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Ivars Cintins
Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
December 13, 2002